D.B. CIVIL SPECIAL APPEAL NO.566/2006
(Mahendra Kumar Vs. State of Raj)

Date of order : 5.12.2006

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. P.S. Rathore, for the appellant.
Mr. B.P. Mathur, for the respondent No.2.

Having heard learned counsel for the appellant as well as learned counsel appearing for respondent No.2, we find no merit in this appeal.

The appellant was prospective tenderer for seeking a contract for pasteurization of milk and providing cold storage facility to the respondent No.2 for three years in pursuance of the advertisement Annexure-1 filed along with the writ petition, which was issued in December, 2005. According, to the order dated 10.2.2006, the petitioner's tender was rejected because he has failed to appear on 6.2.2006 when he was required to present before the Committee along with documents relating to the land/factory and the cash security of Rs.25,000/-. No effort was made to challenge the rejection order until filing of the writ petition after about four months of the communication of the rejection order. The contract was ultimately given to the respondent No.4 vide order dated

13.2.2006 that is to say three days after the order of rejection of the petitioner's tender was made. Apparently when the petitioner did not appear in pursuance to the notice for appearing for considering his tender along with requisite documents and security deposit, no fault can be found with the rejection order.

In that view of the matter, the petitioner has no subsisting right, which could be persuaded by way of filing writ petition. Therefore, we do not find any merit in this appeal though we are not in agreement with the reasoning of the learned Single Judge about the ineligibility of the petitioner for submitting the tender application inasmuch the tender application was not rejected on that ground.

The appeal fails and is hereby dismissed.

(GOPAL KRISHAN VYAS), J. (RAJESH BALIA), J.

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